

KARIS OIL CO., INC.

IBLA 80-621

Decided September 24, 1981

Appeal from the decision of the Colorado State Office, Bureau of Land Management, refusing to release bond 257888 on oil and gas lease C 0104465-A.

Reversed and remanded.

1. Oil and Gas Leases: Assignments or Transfers--Oil and Gas Leases:  
Bonds

Upon approval by BLM of an assignment of an oil and gas lease, the responsibility for providing an adequate bond transfers from the assignor to the assignee pursuant to 43 CFR 3106.2-3. BLM should evaluate the adequacy of the bond offered by the assignee and resolve any deficiencies before approving the assignment. Once BLM approves the assignment, it may not thereafter refuse to release the assignor's bond.

APPEARANCES: Edwin T. Sewall, President, Karis Oil Company, Inc., for appellant.

OPINION BY ADMINISTRATIVE JUDGE BURSKI

Karis Oil Company has appealed the decision of the Colorado State Office, Bureau of Land Management (BLM), dated April 2, 1980, terminating its liability as of February 8, 1980, on bond 257888 for oil and gas lease C 0104465-A, but refusing to release the bond altogether. 1/

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1/ The Apr. 2, 1980, decision also dealt with oil and gas lease C 0124594 and bond 257887 in a similar fashion and appellant originally appealed the failure to release this bond as well. However, BLM subsequently informed appellant that it would release bond 257887 and appellant withdrew its appeal as to that bond.

In June 1979, appellant assigned 100 percent of its record title and working interest in oil and gas lease C 0104465-A to Rimby Petroleum, Inc. (Rimby). Thereafter appellant timely filed for approval of the assignments. BLM granted approval on February 8, 1980, after Rimby had furnished a statewide personal bond in the amount of \$25,000 to cover the lease pursuant to 43 CFR 3104.3. Then, on April 2, 1980, BLM issued a decision terminating the period of liability of bond 257888 as of February 8, 1980. The decision went on to say:

This decision does not constitute a release of the subject bonds. While the assignee, Rimby Petroleum, Inc. has filed a statewide oil and gas bond, it has not specifically assumed all outstanding liability under the bonds which may have accrued prior to February 8, 1980. A determination to release the bond(s) must await the report of the U.S. Geological Survey whether the activities of Rimby Petroleum, Inc. have been such as to make that company and its bond liable for all matters now covered by the two Karis Oil Company bonds. As soon as the report(s) are received, this office will advise Karis Oil Co., Inc. and Northwestern National Insurance Company whether the bond(s) may be released.

Appellant appeals the decision insofar as it does not release its bond.

In its statement of reasons, appellant points out that Rimby has become the sole lessee and has the sole responsibility for meeting all obligations under the lease. Citing to statute, Departmental regulations, and various terms of the oil and gas lease itself, appellant argues that the Rimby bond fully replaced its bond as to all obligations upon approval by BLM of the assignment.

[1] BLM, in effect, approved the assignment of oil and gas lease C 0104465-A and then later questioned the bond provided as a necessary element of seeking approval for the assignment. This was improper. Questions as to the appropriateness of a bond provided by an assignee in meeting obligations under an assigned lease should be resolved prior to approval of the lease's assignment. This Board has held that a request for approval of an assignment is incomplete until all items required by statute to be filed with the request including any required bond, have been filed, and an incomplete application is properly rejected. Robert N. Enfield, 4 IBLA 317 (1972). The bond that the assignee is required to provide is that which will cover any obligations arising under the lease to the same extent that the assignor's bond would have done. BLM should ascertain the adequacy of such bond before approving the assignment.

We recognize that there are practical problems which BLM faces in approvals of assignments. BLM could, however, have preconditioned

approval of the assignment upon the provision of a rider to the Rimby bond agreeing to be held liable for all liability which had already attached to the Karis bond. If an assignee refused to provide such a rider, the State office could properly refuse to approve the assignment until assignor made separate arrangements with BLM to assure that all of its lease obligations would be taken care of. Once approval of the assignment occurs, however, it is error to hold that the assignor's bond liabilities for the subject lease continue absent such an express arrangement. 2/

This conclusion is supported by Departmental regulation, 43 CFR 3106.2-3 -- Bonds, which delineates the responsibilities of the assignor and the assignee with respect to bonds as follows:

(a) Coverage. If a bond is necessary, it must be furnished. Where an assignment does not create separate leases the assignee, if the assignment so provides, may become a joint principal on the bond with the assignor. Any assignment which does not convey the assignor's record title in all of the lands in the lease must also be accompanied by consent of his surety to remain bound under the bond of record for the lease interest retained by said assignor, if the bond, by its terms, does not contain such consent. If a party to the assignment has previously furnished a nationwide or statewide bond, no additional showing is necessary by such party as to the bond requirement.

(b) Continuing responsibility. The assignor or sublessor and his surety will continue to be responsible for the performance of any obligation under the lease until the assignment or sublease is approved. If the assignment or transfer is not approved, their obligations to the United States shall continue as though no such assignment or transfer had been filed for approval. After approval the assignee or sublessee and his surety will be responsible for the performance of all lease obligations notwithstanding any terms in the assignments or sublease to the contrary. [Emphasis added.]

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2/ We also would point out that the regulations and various forms could be structured in such a way so as to clearly provide that an assignor's bond would not be released until it had been ascertained that there was no need for recourse against it during the period for which it was effective. The proper mode to effectuate adequate protection, however, is a matter committed to the discretion of the Bureau. We merely hold, herein, that, given the facts of the instant case, BLM was obligated to release appellant's bond when it approved the assignment.

Nothing in the assignment approval indicates that a contrary result should occur herein. Thus, we must hold that it was error to not release appellant's bond.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is reversed and remanded for action consistent with this opinion.

James L. Burski

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Administrative Judge

We concur:

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Edward W. Stuebing  
Administrative Judge

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Douglas E. Henriques  
Administrative Judge.

